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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter Of)
)
Citizenship Requirements of)
Section 310(b) of the)
Communications Act of 1934)

RM No. _____
MM Docket No. _____

To: The Commission

PETITION FOR RULEMAKING

Richard Cotton
Ellen Shaw Agress
Susan E. Weiner

National Broadcasting
Company, Inc.
30 Rockefeller Plaza
New York, New York 10112

John K. Hane

National Broadcasting
Company, Inc.
1299 Pennsylvania Ave., NW
Washington, D.C. 20004

Of counsel:

Michael K. Kellogg
Jeffrey A. Lamken

Kellogg, Huber, Hansen and Todd
1300 I Street, NW
Washington, D.C. 20005

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I. INTRODUCTION AND SUMMARY

Fair competition requires, at a bare minimum, that all competitors be governed by the same set of rules and that all competitors have the ability to know what those rules are. This petition for rulemaking seeks urgent clarification of the rules governing foreign ownership of U.S. television stations. Given the importance of the subject and the fact that one foreign company has asked the Commission to completely reverse its prior policy of 60 years standing, the Commission should deal openly and thoroughly with this issue.

The Commission should either enforce the rules as written, or it should change them. If the Commission intends to change the rules or to change its 60-year policy of not granting exceptions, the Commission should initiate a rulemaking proceeding which (1) clearly describes for all competitors and for the public the nature of any change in policy the Commission

is considering, (2) seeks full public comment before any such change is adopted, and (3) establishes an enforcement policy for any such change equally applicable to all.

No one can dispute the importance of the subject. It is a policy issue that balances free trade preferences against key public interest considerations involving the unique role that broadcasters play in gathering and disseminating news, facilitating the exchange and formation of public opinion, and shaping our national culture.

Countries throughout the world recognize the unique character of the instruments of mass communication, particularly television. The governments of most major countries guarantee domestic ownership of television facilities by imposing sharp restrictions on foreign ownership of broadcasters. Virtually every European country prohibits foreign ownership of broadcast television stations in excess of 30%. Some countries, such as France, Spain, Switzerland and the Netherlands, impose even stricter limits. Severe restrictions on foreign ownership are also imposed by countries in Asia and North and South America, including Japan, India, China, Brazil and Canada. Australia imposes one of the strictest limitations--no foreign company may own more than 15% of a broadcast company. (Globalization of the Mass Media, National Telecommunications and Information Administration Publication 93-290, U.S. Department of Commerce, January 1993, pp. 82-83.)

Historically and up to today, the United States has been no

exception. Sixty years ago, the Congress enacted a clear, statutory limitation in Section 310 of the Communications Act of 1934. That section prohibits foreign companies from owning more than 25% of a U.S. television or radio station. The Congress required a minimum of 75% domestic ownership of television stations to "insure the American character" of licensees, "to guard against alien control" and to protect national security. (S. Rep. 781, 73d Cong., 2d Sess. 7 (1934)).¹

Based on NBC's research, during the 60 years that the 25% restriction has been law, the Federal Communications Commission, with absolute consistency and without exception, has never permitted any foreign citizen or any foreign company to exceed the 25% limit on ownership of television stations. Nor has the Commission ever even hinted at any reason to change this 60-year consistent policy of granting no exceptions to the prohibition of foreign ownership of more than 25% of a broadcast television station. Moreover, the worldwide enactment and enforcement of similar limitations in other countries has meant that United States policy was reciprocal with that of virtually all its trading partners. The simple fact is that broadcast television, given its pervasive role in news reporting and in influencing public opinion, has always occupied a special position both in the United States, and in most countries around the world.

¹Consistent with our tradition of freedom and private ownership of economic assets, the United States never tried to place television and radio in government hands. And the United States has never tried to limit the importation of television programming from other countries.

Now, however, an Australian company, which is currently in violation of the statutory limit as it has been consistently interpreted in the past, has asked the Commission to throw out the 60-year history of the enforcement of the U.S. statutory prohibition. The request by Fox Television Stations, Inc. ("Fox") and The News Corporation Limited ("News Corp.") is not for a small exception or for a minor increase in permissible alien ownership. Their request seeks to blaze a trail that would effectively eradicate the ownership limitation by allowing foreign companies to own from 50 to 99% of major U.S. television stations.

At the outset it is important to ask why the United States should depart from its tradition of domestic ownership of radio and television stations in response to a request from an Australian company? Australia prohibits a U.S. or other foreign company from owning more than 15% of an Australian TV station. Why should the U.S. permit an Australian company to own more than 99% of ten major market U.S. television stations and permit 50% foreign ownership of four other TV stations in which the Australian company is a co-owner?

Even disregarding the origin of the request, it is not obvious what reasons would justify such a radical departure from existing U.S. policy and from current international norms. But what is obvious is that any change of policy (a) should be made on the basis of a full record, open to comment by all broadcasters and the public, and (b) should apply equally to all

competitors.

NBC submits this rulemaking petition for three reasons:

(1) The FCC should not -- suddenly and without precedent -- demolish its consistent 60-year policy of granting no exceptions to the foreign ownership limitation to advantage a single foreign company, particularly one whose own home country imposes strict foreign ownership limitations. Given the extraordinary breadth of the exception that Fox and News Corp. are seeking, this Commission action will become a precedent for exceptions that will clearly swallow the rule. The Commission should neither carve out special treatment for one foreign entity, nor abandon lightly a policy which recognizes the unique role that broadcasting plays in a democratic society.

(2) Any change in the rules governing foreign ownership of U.S. broadcasters is so important that everyone who is interested should have an opportunity to make their views known to the Commission. Broad new policy should not be set within the context of an individual adjudicatory proceeding, without the opportunity for comment and debate created by notice-and-comment rulemaking. Rather, the Commission should initiate a rulemaking to analyze and receive public comment on any potential policy change that would sanction increased foreign ownership of institutions that profoundly affect the fabric of American social discourse on news, political opinion, and culture. To reverse

the course of six decades of Commission policy covering broadcast television ownership without conducting a rulemaking proceeding would be inconsistent with good policy-making, with the notice-and-comment procedures designed to achieve well-informed administrative determinations, and with court decisions underscoring the need for rulemaking when an agency reverses a longstanding policy of national importance that affects many parties.

(3) Finally, if the Commission believes that a greater presence of foreign capital and foreign investors is desirable in the ownership of U.S. television stations, the Commission should establish new rules that apply to everyone, and not work to the unique advantage of one foreign company. The Commission cannot and should not put on policy blinders and write rules that create special treatment for one individual foreign company. If increased alien ownership is beneficial, then everyone should be entitled to consider increased foreign investment; if increased alien ownership does not serve the public interest, that interest certainly is not served by carving out an exception for one competitor.

* * * *

For these reasons, NBC requests that the Commission either reaffirm and enforce its existing policy or commence a rulemaking of general applicability to delineate the considerations and standards that will govern its decisions on foreign ownership of

broadcast media. NBC further requests that the Commission take no action in individual licensing proceedings that would foreclose or prejudice full consideration of these far-reaching policy issues in such a rulemaking.

II. THE EXISTING 25% LIMIT ON FOREIGN OWNERSHIP HAS BEEN CONSISTENTLY APPLIED WITH NO EXCEPTIONS, BASED ON IMPORTANT PUBLIC POLICY CONSIDERATIONS.

Any evaluation of the policy limiting foreign companies to no more than a 25% ownership interest in broadcast television must consider four component parts of the policy:

- 1) the clear Congressional intent expressed on multiple occasions over the 80 years since the original prohibition was enacted in 1912;
- 2) the relentlessly consistent Commission policy of granting no exceptions for foreign ownership exceeding 25% for broadcast television stations, which the Commission has highlighted over the years by specifically contrasting its willingness to grant such exceptions in common carrier cases with its refusal to grant such exceptions for television stations;
- 3) the existence of similar or more restrictive television ownership policies in most major countries around the world; and
- 4) the unique role played by broadcast television in news reporting, the formation of public opinion and the shaping of national culture.

A. THE CONGRESS HAS CONSISTENTLY ADHERED TO THE 25% LIMIT AND CLEARLY IMPOSED IT ON NON-VOTING OWNERSHIP INTERESTS.

Section 310(b) of the Communications Act prohibits foreign companies from owning more than 25% of a broadcast television station, unless the FCC makes a specific finding that it is in the public interest to exceed this limit. This prohibition

applies to equity interests "owned of record or voted by aliens." 47 U.S.C. Section 310(b) (emphasis added.) Plainly this language applies to any type of equity ownership in the broadcast station licensee, whether voting or non-voting stock. The test is whether the foreign corporation was the owner of record of the equity interests. Plainly, under this test, News Corp. is in violation of this law as it has been consistently interpreted in the past.

This statutory prohibition traces its history back to the Radio Act of 1912. The Radio Act of 1912 permitted issuance of U.S. radio licenses only to American citizens. The restrictions were tightened in the Radio Act of 1927 to prevent foreign entities from obtaining de facto control of radio companies and to impose limits on alien ownership and control of companies holding radio licenses. (See Hearings on H.R. 8301 Before the House Comm. on Interstate and Foreign Commerce, 73d Cong., 2d Sess. 53 (1934); Pub. L. No. 69-632, ch. 169, § 12, 44 Stat, 1162, 1167 (1927) (repealed 1934)).

Section 310 of the Communications Act of 1934 carried forward the Radio Act's limits on alien ownership of radio licensees to broadcast licensees. Section 310 was enacted by Congress to prevent the infiltration of foreign influences into broadcasting and to "insure the American character" of licensees and their parents companies. See S. Rep. 781, 73d Cong., 2d Sess. 7 (1934); Wilner & Scheiner, 103 F.C.C.2d 511, 516-17, ¶ 11 (1985).

The Communications Act of 1934 specifically changed the scope of the statutory limitation so that it applied to both voting and non-voting equity interests. The Congress amended prior statutory language and applied the 25% limit to equity interests "owned of record or voted by aliens." (47 U.S.C. § 310(a)(5) (1934) (presently codified at 47 U.S.C. §§ 310 (b)(3)(4) (1982))). Most significantly, the Commission itself has expressly recognized that "the adoption of an independent restriction on equity ownership by aliens in addition to one relating to voting rights indicates a specific congressional concern about substantial equity investment by aliens." TA Associates, 61 RR2d 298, 303-04 n.13 (1986).

Although Congress has adopted minor amendments to section 310(b) since the 1934 Act was enacted, and thus had opportunities to revisit the policies underlying the 25% limit on alien ownership, Congress has not questioned or disturbed the restriction. (See Act of May 20, 1964, Pub. L. No. 88-313, 78 Stat. 202 (1964) (amendment to allow licensing of alien amateur radio operators within U.S. under certain circumstances); Act of Nov. 30, 1975, Pub. L. No. 93-505, 88 Stat. 1576 (1974) (narrowed types of licenses subject to § 310(b) and exempted certain non-broadcast services from restrictions). Congress has never suggested any weakening in its resolve to continue this long-standing limit on alien ownership.

B. THE COMMISSION HAS NEVER GRANTED AN EXCEPTION FOR A BROADCAST TELEVISION STATION AND HAS REPEATEDLY CONTRASTED ITS BROADCAST POLICY WITH ITS MORE LENIENT COMMON CARRIER POLICY.

In 60 years of applying Section 310(b), the Commission has never -- not even in a single isolated case -- granted an exception to the 25% limit in the case of a television station. That degree of consistency is rare in any area of communications law. So the starting point of any analysis must acknowledge that the Commission has established a policy that is almost unique in its clarity and consistency: no exceptions when it comes to the 25% on foreign ownership of television stations.

As the Commission and the Courts have recognized, Section 310(b)(4) is designed to limit "foreign influence in broadcasting." Moving Phones Partnership v. FCC, 998 F.2d 1051, 1055 (D.C. Cir. 1993) (internal quotation marks omitted), cert. denied sub nom., Cellswitch, L.P. v. FCC, ___ U.S. ___, 114 S. Ct. 1369 (1994); Millicom, Inc., 4 FCC Rcd at 4846, 4847, ¶ 10 (1989); PrimeMedia, 3 FCC Rcd 4293, 4294 (1988), ¶ 8. The unyielding, strict application of the limit of foreign ownership of broadcast televisions stations pervades the Commission's 310(b)(4) decisions. Time and again, the Commission has explained that relatively more lenient treatment of foreign ownership of common carrier licensees -- as opposed to broadcast licensees -- is justified by the fact that common carriers cannot determine content:

In addition, as [the applicant] has argued, the content of transmissions will not be affected by the licensee. As a common carrier, it has the duty to provide service

on a non-discriminatory basis, subject to its tariff. Accordingly, the importance of limiting alien participation is less than it would be for broadcast stations.

UpSouth Corp., 9 FCC Rcd 2130, 2131, ¶ 13 (1994). Accord, Millicom, 4 FCC Rcd at 4847, ¶ 12 (noting that "the licensed stations provide common carrier service, and as a result, they involve facilities in which the licensee exercises no control over the content of the transmissions"); Teleport Transmission Holdings, Inc., 8 FCC Rcd 3063, 3065, ¶ 10 (1993) ("Finally, we note that the two licenses involved are common carrier licenses [and that] the licensee will exercise therefore no control over the content of the transmissions").

C. VIRTUALLY ALL MAJOR COUNTRIES, INCLUDING AUSTRALIA, IMPOSE STRINGENT LIMITATIONS ON FOREIGN OWNERSHIP OF TELEVISION.

The United States policy limiting foreign ownership of television is mirrored in the laws of virtually every major country around the world. Reproduced on page 11-A is a chart prepared in January 1993 by the U.S. Department of Commerce summarizing the laws of some 20 countries on ownership limits applicable to broadcast television. While some of these laws have changed since the chart was compiled, it does underscore for the Commission that United States policy is reciprocal with the policies of countries throughout the world.

Perhaps the most ironic entry in the Department of Commerce compilation is that of Australia. Based on the Commerce Department's analysis, Australia has one of the most restrictive

Country	Foreign Ownership Permitted		Percentage of Foreign Ownership Permitted	
	Broadcast	Cable	Broadcast	Cable
United States	Yes	Yes	20-25%(a)	100%
Japan	Yes	Yes	20%	20%
Germany, Fed. Rep. of	Yes	No	(b)	N/A
France	Yes	Yes	20%(c)	100%
Italy	Yes	(d)	non-controlling(e)	N/A
United Kingdom	Yes	Yes	30-50%(f)	100%
Canada	Yes	Yes	20%(g)	20%(g)
China	No	No	N/A	N/A
Brazil	Yes	Yes	30%	N/A
Spain	Yes	(d)	25%	N/A
India	No	No	N/A	N/A
Australia	Yes	No(h)	15-20%(i)	N/A
Netherlands	No	No	N/A	N/A
South Korea	No	No	33%	N/A
Switzerland	No	No(j)	N/A	N/A
Mexico	No	No(k)	N/A	N/A
Sweden	Yes(l)	Yes	(m)	(m)

Source: compiled from individual country sources and embassies, where available; otherwise, ITA and the Library of Congress.

- (a) See supra at p. 77.
- (b) There are no formal restrictions. The 16 German Laender grant licenses independently.
- (c) Generally, the foreign ownership rules of France and other EC-member countries apply only to entities of non-EC member countries.
- (d) The cable industry is not regulated.
- (e) Only non-EC foreign owners are restricted to a non-controlling interest.
- (f) Control is defined as an interest of more than 30 to 50%, depending on the circumstances.
- (g) No single foreign shareholder may own more than 10% of the stock of a broadcasting or cable company.
- (h) Cable has not been introduced in Australia.
- (i) No individual foreigner may own more than 15% of the issued capital or voting rights in a broadcast company and aggregate foreign ownership in a broadcast company may not exceed 20%.
- (j) Virtually all TV broadcast transmission takes place over a cable system operated by the state monopoly.
- (k) A recently passed law that would allow up to a 49% foreign ownership interest of cable facilities has not yet gone into effect.
- (l) The first private station went on the air Jan. 1, 1992.
- (m) No formal restrictions exist. The license of the only commercial broadcast station, TV4, restricts foreign ownership to 30%.

Table 6.1: Foreign Ownership Restrictions

limits, prohibiting a United States corporation or other non-Australian company from owning more than a 15% interest in an Australian television licensee.

In considering whether any change in U.S. policy is warranted, the Commission should recognize that countries around the world have all reached the same conclusion about the desirability of domestic ownership and control of broadcast television and should also fully assess the policies in other countries and consider the issue of reciprocity before making any decisions on changing U.S. policy.

Nor has the Commission ever suggested that, as applied to broadcast licensees, the policies underlying the alien ownership limit have been eroded. Rather, the Commission has repeatedly emphasized that section 310(b) "reflects the broad purpose of safeguarding the United States from foreign influence in the field of broadcasting." Millicom, Inc., 4 FCC Rcd 4846, 4847, ¶ 10 (1989) (internal quotation marks omitted); TA Associates, 61 RR2d at 303-04 (congressional concern over substantial alien ownership exists "even where the alien's ownership interest is noninfluential in nature.")

D. TELEVISION PLAYS A UNIQUE ROLE IN A DEMOCRATIC SOCIETY WHICH THE COMMISSION MUST CAREFULLY CONSIDER IN ANY EVALUATION OF ITS CURRENT POLICY.

The fact is that more Americans get their news from television than from any other single source. Television plays an enormously important role in gathering news, in reporting

news, in interpreting news, in forming public opinion and in shaping national culture. Historically the Congress and the Commission have clearly believed it was important -- in a democracy that has its roots in a particular set of national traditions -- to limit the ownership of television stations to domestic entities that were similarly rooted in and committed to those traditions.

American democracy and the nature of key institutions that influence and determine the free flow of information and ideas to the American public will be directly affected by any change in this historical approach. The Commission must focus on reaching the correct policy decisions given the critical importance of the issue at hand. It should not focus on the convenience of one Australian company that has, for example, built a network without a news division and without either a morning or evening news program -- decisions which contrast sharply with the practice of the three U.S. networks.

And, in order to make the right decision, the Commission must consider carefully the role of broadcast television, what it has been, what it will be, and whether it is consistent with that role for the U.S. to adopt policies -- unique in the world -- allowing foreign companies to own from 50 to 99% of U.S. television stations.

III. THE COMMISSION MUST ENGAGE IN RULEMAKING BEFORE DETERMINING WHETHER TO ALTER ITS POLICY OF NEVER GRANTING AN EXCEPTION TO THE 25% LIMIT IN A TELEVISION CASE.

The Commission enjoys some discretion when deciding whether to announce a new rule in an adjudication or a rulemaking. See NLRB v. Bell Aerospace, 416 U.S. 267, 294 (1974). But there are limits to that discretion. Ibid. See, e.g., Patel v. INS, 638 F.2d 1199 (9th Cir. 1980) (reversing for failure to use rulemaking rather than adjudication); Matzke v. Block, 732 F.2d 799 (10th Cir. 1984) (same); Curry v. Block, 738 F.2d 1556 (11th Cir. 1984) (same). As the Supreme Court has explained:

Since the Commission, unlike a court, does have the ability to make new law prospectively through the exercise of its rule-making powers, it has less reason to rely upon ad hoc adjudication to formulate new standards of conduct The function of filling in the interstices of the Act should be performed, as much as possible, through th[e] quasi-legislative promulgation of rules"

SEC v. Chenery Corp., 332 U.S. 194, 202 (1947).

Expanding on this admonition, the federal courts have identified factors that bear on whether the agency must issue clear, quasi-legislative rules or may instead proceed through case-by-case adjudication. These factors include whether the agency is considering a change to longstanding law;² whether the issues will be fully and fairly aired in the absence of a

²Ford Motor Co. v. FTC, 673 F.2d 1008, 1009 (9th Cir. 1981), cert. denied, 459 U.S. 999 (1982); Coalition for the Preservation of Hispanic Broadcasting v. FCC, 893 F.2d 1349, 1359 (D.C. Cir. 1990), vacated en banc on standing grounds, 931 F.2d 74 (1991); First Bancorporation v. Board of Governors of the Fed. Reserve, 728 F.2d 434, 437-38 (10th Cir. 1984).

rulemaking;³ and the importance of the new rule and the breadth of its application.⁴

Each of these factors weighs heavily in favor of proceeding by rulemaking here. In addition, because the Commission's decision will have First Amendment ramifications, the need for rulemaking is at its zenith.

Change of Law

There is no doubt that the Commission has before it a request to change the law. Section 310(b)(4) by its terms sets a clear 25% limit on foreign ownership and requires the Commission to make a specific public interest determination before it grants a broadcast license to an entity whose foreign ownership exceeds 25%. Never has the Commission found it in the public interest to do so. On the contrary, in case after case, the Commission has declined to permit the 25% foreign interest threshold of Section 310(b)(4) to be breached. See, e.g., PrimeMedia Broadcasting, Inc., 3 FCC Rcd 4293, 4295, ¶ 13 (1988) (refusing to permit 75 percent interest despite use of voting trust to minimize alien influence); American Colonial Broadcasting Corp., MMB Letter, Jan. 10, 1985; Galesburg Broadcasting Co., 6 FCC Rcd 2210, 2211 (MMB Letter, Apr. 16, 1991).

Notwithstanding this unbroken line of precedent, Fox seeks a

³Chisholm v. FCC, 538 F.2d 349, 365 (D.C. Cir.), cert. denied, 429 U.S. 890 (1976); National Ass'n of Indep. Television Prods. and Dist. v. FCC, 502 F.2d 249, 257 (2d Cir. 1974).

⁴Ford Motor Co., 673 F.2d at 1009; First Bancorporation, 728 F.2d at 438.

ruling that would permit a 99-percent alien interest, not a modest gloss on existing Commission policy or a slight increase over the limit. A more complete reversal of clear Commission policy not to grant exception is difficult to imagine.

The Ninth Circuit has stated that, "an agency must proceed by rule-making if it seeks to change the law and establish rules of widespread application." Ford Motor Co., 673 F.2d at 1009. See also First Bancorporation, 728 F.2d at 438 (because a "significant policy change was announced" the agency was required to follow "the rulemaking provisions of § 553"). If the Commission intends to abandon or significantly modify its policy, it should do so through a notice-and-comment rulemaking.

Full Consideration of the Issues

Failure to proceed by rulemaking is likely to impair the Commission's decisionmaking processes. A case-specific adjudication will limit participation, exclude interested and informed parties, and will preclude full exploration of the issues involved.

It is well established that the Commission has an obligation to permit issues of substantial importance to be fully aired. A long-standing Commission policy linked to preserving the American character of broadcasting requires the Commission to consider multiple interests and issues. As the Second Circuit has explained, the Commission's public-interest mandate:

does not permit it to act as an umpire blandly calling balls and strikes for adversaries appearing before it; the right of the public must receive active and affirmative protection at the hands of the Commission.

The Commission may reach compromises . . . but it may not simply compromise between the interests of different broadcasting groups and gloss over the fundamental public interest.

National Ass'n of Indep. Television Prods. and Dist., 502 F.2d at 257-58 (internal quotation marks omitted). The Commission "must listen to the views of groups representing various segments of the public before taking action" and "must take the initiative to seek out such parties and develop a meaningful record." Id.

Additional viewpoints and public input are particularly important not merely because of this issue's importance but also because of the complexity of considerations involved. The Commission ought not set about making a decision regarding this issue of substantial national if not international importance without specifying the change it is considering and requesting comment from all interested parties.

Importance and Breadth of Commission's Ruling

The Commission ruling will have widespread and significant impact on broadcast licensees, the broadcast industry and the viewing public. If foreign ownership exceeding 25% is permissible, such a policy change affects licensees in this country dramatically, affects historical assumptions about the nature of our system of news and public opinion, and also implicates U.S. international trade policy.

As the D.C. Circuit has explained:

[T]he whole point of rulemaking as opposed to adjudication (or of statutory law as opposed to case-by-case common law development) is to incur a small possibility of inaccuracy in exchange for a large increase in efficiency and predictability.

Association of Data Proc. Serv. Orgs. v. Board of Governors of the Fed. Reserve Sys., 745 F.2d 677, 689 (D.C. Cir. 1984); see also Amendment of Parts 76 and 78 of the Commission's Rules to Adopt General Citizenship Requirements of Operation of Cable Television Systems and for Grant of Station Licenses in the Cable Television Relay Service, 56 F.C.C.2d 159, 160-161, ¶ 4 (1975) (Notice of Proposed Rule Making issued to afford the cable industry certainty regarding the permissibility of foreign investment).

The Commission cannot simply create "an ad hoc exception to" established policy "without articulating a clear rationale for th[e] departure." Coalition for the Preservation of Hispanic Broadcasting v. FCC, 893 F.2d 1349, 1359 (D.C. Cir. 1990), vacated en banc on standing grounds, 931 F.2d 74 (1991). The breadth and importance of the issues involved should clearly influence the Commission to decide that any policy changes in this area should only be made pursuant to a rulemaking proceeding.

In sum, rulemaking is required to afford all interested parties notice and an opportunity to be heard on the Commission's consideration of any change in its policy. Rulemaking is required to reach a well-informed determination on the important policy issues raised by alien ownership of broadcast facilities. NBC requests the Commission to commence such a proceeding as soon as practicable and to take no action in individual licensing proceedings that would prejudice full consideration of the issues

in such a rulemaking proceeding.

IV. THE RULES IN THIS AREA SHOULD APPLY EQUALLY TO ALL BROADCASTERS.

This petition, simply put, requests the Commission either to enforce the rules on the books today, or else to change them pursuant to a rulemaking open to all. But above all else, NBC urgently asks the Commission to apply the rules equally to everyone.

To date, the Commission has tilted the regulatory playing field sharply in Fox's direction. Consider the following:

- o The Commission exempted Fox totally from the financial interest and syndication rules.
- o The Commission has given Fox enormously preferential treatment under the Prime Time Access Rule, BOTH at the network level and the station level.
- o The Commission has granted Fox unique rights to broadcast from Mexican affiliates.

Fox is now seeking to extend this special treatment to the Commission's interpretation and enforcement of the rules on foreign ownership. The Commission simply must stop giving special treatment to a foreign broadcaster who is not particularly giving anything in return. It is also important for the Commission to consider that two domestic entities, Time Warner and Paramount, have also started up national broadcast networks. There is simply no justification for not allowing all broadcasters and all competitors to operate under the same set of

rules. If the rules on foreign investment and foreign ownership change, then they should change for everyone, not just for Fox.

CONCLUSION

For the reasons set out above, the Commission should commence a rulemaking to consider its policy with respect to foreign ownership of television stations. The purpose of the rulemaking should be to consider whether (a) the Commission should enforce its rules as written and as historically interpreted and applied, or (b) the Commission should change these rules in ways that would apply equally to all broadcasters and all competitors.

Respectfully submitted,

Richard Cotton/RKH

Richard Cotton
Ellen Shaw Agress
Susan E. Weiner
National Broadcasting Company, Inc.
30 Rockefeller Plaza
New York, New York 10112

John K. Hane/

John K. Hane
National Broadcasting Company, Inc.
11th floor
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Of counsel:

Michael K. Kellogg
Jeffrey A. Lamken

Kellogg, Huber, Hansen & Todd
1300 I Street, NW